

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO.: 2008-

IN RE:)	
)	
DeltaCom, Inc.'s Petition)	DELTACOM'S PETITION FOR REVIEW OF
Requesting the Commission's)	ADMINISTRATOR'S DENIAL OF
Intervention In NeuStar's Denial of)	NUMBERING RESOURCES IN THE CHAPIN
Application for Numbering)	LITTLE MOUNTAIN SOUTH RATE CENTER
Resources)	
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DeltaCom, Inc., d/b/a DeltaCom, pursuant to rules adopted by the Federal Communications Commission ("FCC") for challenging determinations of the Number Pooling Administrator, NeuStar, hereby petitions the Public Service Commission of South Carolina ("Commission") for review of NeuStar's denial of DeltaCom's application for numbering resources in the 803 area code, specifically in the Chapin Little Mountain South, South Carolina rate center.

In support of this petition DeltaCom states the following:

1. DeltaCom is a duly-authorized telecommunications utility regulated by the Commission. It provides, among other services, intraLATA local exchange telecommunication services in various portions of South Carolina, including the Chapin Little Mountain South rate center.

2. NeuStar is an independent, non-governmental entity that is responsible for administering and managing the numbering resources in area codes where number pooling has been implemented.

3. On March 31, 2000, the FCC issued a Report and Order and Further Notice of Proposed Rulemaking relating to numbering resource optimization ("FCC 00-104"). The goal of FCC 00-104 is to implement uniform standards governing requests for telephone numbering resources in order to increase efficiency in the use of telephone numbers and to avoid further exhaustion of numbers under the North American Numbering Plan ("NANP").

4. Among other things, FCC 00-104 adopted a revised standard for assessing a carrier's need for numbering resources by requiring carriers to report rate center based utilization data to the North American Numbering Plan Administrator ("NANPA"), rather than switch-specific utilization data. The FCC further required that, to qualify for access to new numbering resources, an applicant must establish that the existing inventory within the applicant's rate center will exhaust within six months of the application. The FCC reaffirmed this requirement in two subsequent orders. *See* FCC 00-429 at ¶ 29 (rel. Dec. 29, 2000); FCC 01-362 at ¶¶ 48-49 (rel. Dec. 28, 2001).

5. In FCC 00-104, the FCC also directed the industry and the Pooling Administrator to comply with the Industry Numbering Committee ("INC") Thousand-Block Number Pooling Guidelines ("Pooling Guidelines") in implementing pooling trials.

6. Under the Pooling Guidelines, in order to obtain growth in thousand-block allocations, the carrier must pass the same litmus test referenced in paragraph 4 above, by demonstrating that its existing numbering resources for the rate center will exhaust within six months.

7. The shift to a rate center basis from a switch basis for determining the need for new numbering resources was intended to "more accurately reflect how numbering resources are

assigned" and to allow carriers "to obtain numbering resources in response to specific customer demands." FCC 00-104, ¶ 105.

8. In addition to the months-to-exhaust ("MTE") requirement described above, the FCC's rules also required carriers initially to meet a rate center utilization threshold of 60 percent in order to receive additional numbering resources in a given rate center. FCC 00-429 at ¶ 22; FCC 01-362, ¶¶ 50-52. The utilization threshold then increased by five percent per year until it reached a maximum of 75 percent. Based on the FCC's orders, carriers must meet both the six-month MTE requirement and the utilization threshold requirement, which increased to 75 percent effective June 30, 2004, on a rate center basis in order to obtain additional numbering resources. Id. ¶29.

9. On June 4, 2008, as a result of the construction of two new plants and the number of employees that a large business customer of DeltaCom anticipates accommodating, the customer requested two thousand additional telephone numbers. The customer requires that the station numbers fall in the range of 5500 through 9999. The customer prefers a NXX ending in the number 8 ("NX8") so that the digits match the customer's existing 5-digit dialing plan; however, the customer can work around not having NX8 as long the station numbers fall in the range of 5500 through 9999. *See Exhibit A.* On June 5, 2008, DeltaCom submitted a Pooling Administration System Request to NeuStar. *See Exhibit B.*

10. At the time of the filing of the request, DeltaCom had an MTE of 4.7 months and a utilization of 53.3 percent in the Chapin Little Mountain South Rate Center. DeltaCom submits this request because the current numbering resources for the Chapin Little Mountain South Rate Center are (803) 941-0000 – 4999, which do not meet the customer's numbering requirements of NXX-5500 – 9999 or NX8-5500 - 9999. As DeltaCom does not have the

existing numbers to meet the customer's request, it is requesting that the 6000 and 9000 blocks of 803-941 be assigned to it.

11. On June 5, 2008, NeuStar denied DeltaCom's request on the grounds that DeltaCom had not met the rate center based months-to-exhaust criterion and the 75 percent utilization threshold set forth in the Pooling Guidelines. NeuStar denied DeltaCom's numbering request despite the fact that DeltaCom does not have adequate numbering resources needed to satisfy its customer's demands in the Chapin Little Mountain South Rate Center. Neustar's denial is also noted in **Exhibit B**.

12. DeltaCom's inability to provide this important customer with the requested numbers prevents DeltaCom from providing the quality of service this customer desires, needs, and expects. If DeltaCom is not assigned the blocks of numbers requested, which are needed to meet the customer's technical requirements, DeltaCom will be unable to provide the telecommunications services sought by this customer. NeuStar's refusal to grant numbering resources sufficient to meet the customer's needs is inconsistent with the FCC's position that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for want of numbering resources." FCC 00-429 at ¶ 61.

13. Both the FCC's rules and the Central Office Code (NXX) Guidelines provide that state regulatory authorities have the power and authority to review the NANPA's decision to deny a request for numbering resources. *See* FCC 01-362, Appendix A, Final Rules, § 52.15(g)(4) ("The carrier may challenge the NANPA's decision to the appropriate state regulatory commission."); FCC 01-362, Central Office Code (NXX) Guidelines § 13.0 ("Appeals may include but are not limited to one or more of the following options: . . . C. The CO Code

Administrator(s) and code holders/applicants may pursue the disagreement with the appropriate governmental/regulatory body").

14. In addition, the Pooling Guidelines provide that "the appropriate regulatory authority" has the power and authority to review a decision by NeuStar to deny a carrier's request for numbering resources (*See* INC Thousand-block Number Pooling Administration Guidelines ¶3.7, ¶12(c)). Since the FCC delegated authority to the Commission to implement number conservation measures in South Carolina, the Commission is the appropriate regulatory authority to address this petition.

15. FCC Order 01-362 also addressed specific instances of code denials, which apply to this DeltaCom petition, stating "[w]e also clarify that states may grant requests by carriers that receive a specific customer request for numbering to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances." (¶61).

16. Prior to the FCC's orders, the MTE procedures used by NANPA permitted a carrier to receive a code assignment, even if the MTE requirement at the switch level was not met. These waivers or exceptions were granted where customer hardships could be demonstrated or where the service provider's inventory did not have a block of sequential numbers large enough to meet the customer's specific request. Under today's procedures, NANPA and NeuStar look at the MTE for the entire rate center without any exceptions. The FCC has determined, however, that States may grant relief "if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet

with its current inventory." FCC 01-362, ¶ 64. In addition, the FCC has ruled that, "States...may grant requests for customers seeking contiguous blocks of numbers." Id.

17. DeltaCom requests that the Commission reverse NeuStar's decision to withhold numbering resources from DeltaCom on the following grounds:

(a) NeuStar's decision to withhold numbering resources from DeltaCom interferes with DeltaCom's ability to provide telecommunication services to its customers; and

(b) There is a verifiable need for the requested numbering resources.

18. The Commission has previously recognized its jurisdiction and authority to review NANPA and NeuStar denials and to order the release of numbering resources to meet customer demands.

19. This Commission has previously recognized its jurisdiction and authority to review denials by NeuStar and, after due consideration, ordered the release of number resources to meet a carrier's, and its underlying customer's, demonstrated needs under similar circumstances. *See, e.g.*, Docket No. 2002-185-C, Order No. 2002-415 (order reversing NANPA denial of numbering resources). Therefore, all of the reasons supporting the Commission's intervention in the prior cases as well as the specific customer circumstances in the instant petition are cause for the Commission to reverse the NeuStar decision.

WHEREFORE, DeltaCom requests that the Commission:

1. Reverse the decision of NeuStar to deny DeltaCom's request for additional numbering resources;
2. Direct NeuStar to provide the requested two thousand-number blocks (6000 and 9000) in the existing 803-941 NPA-NXX in the Chapin Little Mountain South

rate center or provide a new 803-NX8 in the Chapin Little Mountain South rate center compatible with the customer's existing 5-digit dialing plan; and

3. Grant the requested relief as soon as practicable.

Respectfully submitted,

BY DELTACOM, INC.

s/Robert E. Tyson, Jr.

Robert E. Tyson, Jr., Esq.
Sowell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Columbia, South Carolina 29201
(803) 929-1400

and

Dennis Anthony Mastando, Esq.
VP Regulatory Affairs / Senior Regulatory Counsel
7037 Old Madison Pike
Huntsville, AL 35806
(256) 382-3856

Attorneys for DeltaCom, Inc.

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